

# CITY COUNCIL AGENDA

**MARCH 19, 2013**

**AMENDED AGENDA**

PETE CONSTANT  
ASH KALRA  
SAM LICCARDO  
KANSEN CHU  
XAVIER E. CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON NGUYEN, VICE MAYOR  
ROSE HERRERA  
DONALD ROCHA  
JOHNNY KHAMIS

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

***The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.***

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session, Call to Order in Council Chambers  
Open Session, Labor Negotiations Update (See Item 3.2)  
Adjourn to Closed Session in Council Chambers Conference Room, W133  
[See Separate Agenda](#)  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
7:00 p.m. - **CANCELLED**

- **Invocation (District 3)**

\* Youth Poetry Voices, Movimiento de Arte y Cultura Latino Americana (MACLA)

- **Pledge of Allegiance**

- **Orders of the Day**

\* Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

**Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.**

- **Closed Session Report**

# 1. CEREMONIAL ITEMS

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- 1.1 Presentation of a proclamation recognizing March 25, 2013 as “Greek Independence Day” in the City of San José. (Constant)  
**DROP**
- 1.2 Presentation of a proclamation declaring March 20, 2013 as “Nowruz–Persian/Iranian New Year” in the City of San José. (Khamis)
- 1.3 Presentation of a commendation to the Association for Viet Arts (AVA), which, as the first nonprofit Vietnamese arts organization in the Bay Area, has fostered excellence in Vietnamese American performing, visual, and literary arts and enriched the cultural landscape of this region. (Nguyen)  
\* **DEFERRED TO 4/16/13 IN THE EVENING**
- 1.4 Presentation of a commendation to the Pacific Coast Farmers’ Market Association for providing economic opportunities for California farmers and food producers, local access to farm fresh products, support for local businesses and community organizations, and education regarding food, nutrition and the sustainability of California agriculture, for the past 25 years. (Herrera)  
(Rules Committee referral 3/6/13)

# 2. CONSENT CALENDAR

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**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

## 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29219 – Retroactively extending the Business Tax Amnesty and Business Improvement District Assessment Amnesty Programs (Ordinances Nos. 29166 and 29167, respectively) from March 29, 2013 up through and including May 31, 2013.
- (b) ORD. NO. 29220 – Amending Chapter 4.76 of Title 4 of the San José Municipal Code to add a new Section 4.76.748 to exempt San José Police Officers and Reserve Officers engaged in secondary employment while in their police uniforms from the City’s Business Tax and providing for the exemption from payment of the Business Tax and Business Tax Exemption Processing Fee to apply retroactively to January 1, 2009.

## 2. CONSENT CALENDAR

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### 2.3 Approval of Council Committee Reports.

**Recommendation:** Approval of Council Committee Reports.

- (a) [Ad Hoc Committee on Economic Competitiveness Report of February 4, 2013.](#) (Mayor)
- \* (b) [Rules and Open Government Committee Report of January 23, 2013.](#) (Mayor)
- \* (c) [Rules and Open Government Committee Report of January 30, 2013.](#) (Mayor)

### 2.4 Mayor and Council Excused Absence Requests.

### 2.5 City Council Travel Reports.

### 2.6 Report from the Council Liaison to the Retirement Boards.

### 2.7 [Sale of City-Owned Property at Sunny Oaks Drive and Blossom Hill Road.](#)

**Recommendation:** Adopt a [resolution](#):

- (a) Authorizing an alternative competitive process for the sale of the property at Sunny Oaks Drive and Blossom Hill Road, APN: 464-23-056;
- (b) Approving an [agreement](#) between the City and J Jesus Magana, for sale of the property in the amount of \$135,000; and
- (c) Authorizing the City Manager or her designee to execute the sale agreement, the deed and all other documents necessary to complete the transaction.

CEQA: Exempt, File No. PP99-06-119. Council District 10. (Economic Development)

### 2.8 [Sale of City-Owned Property at 126 South King Road.](#)

**Recommendation:** Adopt a [resolution](#):

- (a) Approving an [agreement](#) between the City and Kevin Vu, the adjoining property owner, for sale of the property identified as APN 481-17-020 and located at 126 South King Road in the amount of \$50,000; and
- (b) Authorizing the City Manager or her designee to execute the sale agreement, the deed, and all other documents necessary to complete the transaction.

CEQA: Exempt, File No. PP10-040. Council District 5. (Economic Development)

### 2.9 [Councilmember Campos' Travel to Pasadena, CA.](#)

**Recommendation:** Approve travel by Councilmember Campos to Pasadena, CA on April 4 – 5, 2013 to attend the League of California Cities' Transportation, Communication & Public Works Policy Committee Meeting. Source of Funds: Mayor & Council Travel Fund. (Campos)

- \* (Rules Committee referral 3/13/13)

## 2. CONSENT CALENDAR

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### 2.10 Councilmember Herrera's Travel to Pasadena, CA.

**Recommendation:** Approve travel by Councilmember Campos to Pasadena, CA on April 4 – 5, 2013 to attend the League of California Cities' Transportation, Communication & Public Works Committee Meeting as Vice Chair and Women's Caucus. Source of Funds: Mayor & Council Travel Fund. (Herrera)

\* (Rules Committee referral 3/13/13)

### 2.11 Appointment to the Advisory Commission on Rents.

**Recommendation:** Appoint John Adams to the Advisory Commission on Rents (Landlord position) to a term expiring June 30, 2013. (City Clerk)

\* (Rules Committee referral 3/13/13)

### 2.12 District 10 Leadership Group Summit Event.

**Recommendation:** As recommended by the Rules and Open Government Committee on March 13, 2013:

- (a) Approve the District 10 Leadership Group Summit Event as a Council-Sponsored Special Event; and
- (b) Approve expending funds and accept donations from various individuals, businesses, and community groups to support the event.

CEQA: Not a Project. (Khamis)

\* [Rules Committee referral 3/13/13 – Item G(2)]

## 3. STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the City Manager, Debra Figone (Verbal Report)

### 3.2 Labor Negotiations Update

**Recommendation:** Accept Labor Negotiations Update.  
**TO BE HEARD AT 9:30 A.M.**

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

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### 4.1 [Agreements for the Development of Samsung's Research and Development Center.](#)

**Recommendation:** Adopt a resolution authorizing the City Manager to execute the following agreements:

- (a) An [Incentive Agreement](#) between the City of San José and Samsung Semiconductor, Inc. outlining the City and State incentives to be provided to Samsung in coordination with the development of the proposed Research and Development (R&D) Center in North San José;
- (b) A [Capital Equipment and Assistance Agreement](#) with Samsung Semiconductor, Inc., in which the City will provide an amount not to exceed \$500,000 for the acquisition of production and assembly equipment to be installed at Samsung Semiconductor's new R&D facility in San José; and
- (c) [Utility Users Tax Reimbursement Agreement](#) with Samsung Semiconductor, Inc., that will provide funding in an amount equal to 50% of the City's 5% of net new utility user taxes received from Samsung Semiconductor for 10 consecutive years in an amount not to exceed \$500,000.

CEQA: Statutorily Exempt, File No. PP10-066(a), Equipment Acquisition. Council District 4. (Economic Development)

(Deferred from 3/12/13 – Item 4.1, 3/5/13 – Item 4.1, and 02/26/13 – Item 4.2)

\* **DEFERRED TO 3/26/13 PER ADMINISTRATION**

## 5. NEIGHBORHOOD SERVICES

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## 6. TRANSPORTATION & AVIATION SERVICES

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## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 [Agreement with Pacific Gas & Electric for the Silicon Valley Energy Watch Program and Related Appropriation Actions.](#)

**Recommendation:**

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement with Pacific Gas and Electric, along with all related documents necessary to effectuate the program, to receive funding in the amount of \$1,126,440 for the term beginning April 1, 2013 through December 31, 2014 for the Silicon Valley Energy Watch (SVEW) program.
- (b) Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund for fiscal year 2012-2013:
  - (1) Increase the appropriation to the Environmental Services Department for Personal Services by \$54,000;

*(Item continued on the next page)*

## 7. ENVIRONMENTAL & UTILITY SERVICES

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### 7.1 Agreement with Pacific Gas & Electric for the Silicon Valley Energy Watch Program and Related Appropriation Actions. (Cont'd.)

**Recommendation:**

- (b) (2) Increase the appropriation to the Environmental Services Department for Non-personal/Equipment by \$60,000; and
  - (3) Increase the Estimate for Revenue from Local Agencies by \$114,000.
- CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Environmental Services/City Manager's Office)

## 8. PUBLIC SAFETY SERVICES

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## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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### 9.1 Agreement with JPMorgan Chase Bank, NA for Merged Area Redevelopment Project Revenue Bonds, Series 1996 A & B and Series 2003 A & B.

**Recommendation:** Adopt a [resolution](#):

- (a) Authorizing, subject to the approval of the Oversight Board of the Successor Agency (the "Oversight Board") and State Department of Finance ("DOF"), the execution and delivery, in substantially final form, of an [Amended and Restated Reimbursement Agreement](#) (the "Reimbursement Agreement") with JPMorgan Chase Bank, NA ("JPMorgan") to extend the terms of the letters of credit (the "Letters of Credit") relating to:
  - (1) Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds, 1996 Series A and 1996 Series B (collectively, "1996 Bonds") ; and
  - (2) Redevelopment Agency of the City of San José Merged Area Redevelopment Project Taxable Revenue Bonds, Series 2003 A (Subordinate Tax Allocation) and Redevelopment Agency of the City of San José Merged Area Redevelopment Project Revenue Bonds, 2003 Series B (Subordinate Tax Allocation (collectively, "2003 Bonds");
- (b) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of an [Amended Letter Agreement](#) regarding fees and charges for the Letters of Credit provided by JPMorgan under the Reimbursement Agreement in the amount of 2.80% of the aggregate outstanding face amounts of the Letters of Credit, assuming that two of the three ratings assigned by Fitch, Moody's or Standard & Poor's on the senior lien Redevelopment Agency of the City of San José Merged Area Redevelopment Project Tax Allocation Bonds are not withdrawn, suspended or otherwise become unavailable;

*(Item continued on the next page)*



## 9. REDEVELOPMENT – SUCCESSOR AGENCY

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### 9.1 Agreement with JPMorgan Chase Bank, NA for Merged Area Redevelopment Project Revenue Bonds, Series 1996 A & B and Series 2003 A & B. (Cont'd.)

#### **Recommendation:**

- (c) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of a [Second Supplemental Indenture of Trust](#) relating to the 1996 Bonds between the Successor Agency and U.S. Bank National Association, as Trustee (the “1996 Trustee”);
- (d) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of a [First Supplemental Indenture of Trust](#) relating to the 2003 Bonds between the Successor Agency, U.S. Bank National Association as Trustee (the “2003 Trustee”) and the 1996 Trustee;
- (e) Appointing U.S. Bancorp (“U.S. Bancorp”) as Remarketing Agent for the 1996 Series B Bonds and Citigroup Global Markets Inc. (“Citigroup”) as Remarketing Agent for the 2003 Series B, in each case to replace Bank of America Merrill Lynch;
- (f) Authorizing, subject to the approval of the Oversight Board and DOF, the execution and delivery, in substantially final form, of [Amended and Restated Remarketing Agreements](#) with Citigroup and U.S. Bancorp with respect to the 1996 Bonds and JPMorgan and Citigroup with respect to the 2003 Bonds;
- (g) Authorizing, the execution and delivery, in substantially final form, of a [Remarketing Memorandum](#) with respect to the 1996 Bonds and 2003 Bonds; and
- (h) Authorizing the Executive Officer of the Successor Agency, the Director of Finance of the City of the City of San José, or their designee, to take any actions and execute any and all documents necessary to complete this transaction.

CEQA: Not a Project, File No. PP10-066, Agreements/Contracts. (Finance)

- **Open Forum**

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*

- **Evening Session Cancelled**

## 10. GENERAL PLAN PUBLIC HEARINGS

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No General Plan Public Hearing at this time.

## 11. PUBLIC HEARINGS

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### *EVENING SESSION CANCELLED*

**Notice to the public:** There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

### **11.1 Public Hearings on Consent Calendar.**

No Public Hearings on Consent Calendar at this time.

### **11.2 ADMINISTRATIVE HEARING and Consideration of an APPEAL of the Planning Commission's Decision to Approve a Conditional Use Permit to Allow the Expansion of an Existing Cemetery Site.**

**Recommendation:** Conduct an ADMINISTRATIVE HEARING and consider an APPEAL of the Planning Commission's decision to approve a Conditional Use Permit to allow the expansion of an existing cemetery site in the R-1-8 Residential Zoning District, on two parcels consisting of 0.20 and 0.18 gross acres, located on the east side of Alexander Avenue, approximately 260 feet southerly of Madden Avenue (60 and 80 Alexander Avenue) (Roman Catholic Bishop of San José, Owner). CEQA: Exempt.

CP12-038 – District 5

**DEFERRED TO 3/26/13 PER ADMINISTRATION**

- **Open Forum**  
*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*
- **Adjournment**

## **CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.